IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE EIGHTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

and
THE HON'BLE MR JUSTICE Ch.S.R.K. PRASAD

WRIT PETITION NO : 17106 of 2004

Between:

M. Manikyam, S/o. Ramappa,
R/o. 8-4-315/21/56, Chatrapathisivaji Nagar, Erragadda, Hyderabad.

..... PETITIONER

AND

1 The Collector and District Magistrate, Medak District at Sangareddy.
2 The Government of Andhra Pradesh, Rep. by its Chief Secretary, Secretariat, Hyderabad.
3 The Superintendent, Central Prison, for Women, Chenchalguda, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Habeas Corpus under Article 226 of the Constitution of India, directing the respondents to produce the detenu Smt. Wadde Bharathi W/o. Hanumanthu, now detained in Central Prison for Women, Chenchalguda, Hyderabad before this Hon'ble Court and she may be released forthwith after declaring that her detention is illegal and invalid.

Counsel for the Petitioner: MR.I.V.N.RAJU

Counsel for the Respondents: THE ADVOCATE GENERAL

The Court made the following:

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ORAL ORDER: (BY GB,J)

The Writ Petition is filed seeking Writ of Habeas Corpus directing the respondents to produce Smt. Wadde Bharathi, W/o. Hanumanthu now detained in Central Prison for Women, Chenchalguda, Hyderabad and that she may be ordered to be released forthwith declaring that his detention is illegal and invalid.

2. The detenu was detained in pursuance of the order passed by the Collector and District Magistrate, Anantapur, in proceedings No.C1/4435/2004 dated 16-8-2004 by virtue of the powers vested in him under Sub Section (2) of Section 3 of the A.P. Prevention of Dangerous Activities of Bootleggers, Dacoits, Drug Offenders, Goondas, Immoral Traffic Offenders and Land Grabbers Act (Act 1 of 1986). In support of the order of detention, 16 grounds were referred to by the detaining authority which read thus:

> "1) PR.No.389/96-97, Dt:18.09.1997:
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> On 18-09-1997 at about 08.30 P.M. on receipt of reliable information that arrack sachets are being sold
> at Railway gate, Bagareddypally of Zaheerabad Town,
> Sri A.V.S.Prasad, Prohibition and Excise Sub-Inspector has proceeded to the place. The officer has found one person standing at bushes besides western side to Railway compound wall. On identifying the Excise Officer the said person has began running, but the officer has chased him caught hold of him. On enquiry by the officer, the said person has revealed his name as Gouda Lingamaiah, S/o Shivaram, R/o Komishittypally, Munipally (M). The officer has searched him and found 10 Karnataka State Arrack sachets. On further enquiry by the Excise Officer the Gouda Lingamaiah has disclosed that you have sold to him. The search, seizure and drawing of samples were effected under cover of panchanama. Accordingly a case was registered against you under section 7(A) r/w 8(c) of the A.P.Prohibition Act 1995 in PR.No.389/96-97, Dated 18-09-1997.
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> One sample was sent to Regional Government Chemical Examiner for Prohibition and Excise, Nizamabad. The Regional Government Chemical Examiner in his analysis report C.E.No.724/97 Date: 25-10-1997 opined that the sample is "Liquor".
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> On completion of investigation charge-sheet was filed against you before the Hon'ble Judicial First Class Magistrate special court for Prohibition and Excise Offences, Medak District at Sangareddy. You were arrested and released on bail on 23-09-1997 and case was numbered as C.C.No.94 of 2001 on the file of A.J.F.C.M., Zaheerabad, Medak District.

2. PR.No.226/97-98, Dt:26.06.1998:

On 29-06-1998 at about 05.30 P.M., on getting reliable information about illegal sale of arrack sachets at Bagareddypally, Zaheerabad Town, Sri A.Anjaiah, Prohibition and Excise Inspector, Zaheerabad and Sri A.V.S.Prasad, Prohibition and Excise Sub-Inspector have proceeded to the 1st lane at Bagareddypally. There the officers have found you are carrying a bag and selling arrack sachets near toddy compound. On identifying on local enquiry by officer, it was revealed the particulars about you. The officers recovered 56 Karnataka Arrack Sachets each containing 100 ml. The search seized and drawing of samples were effected under cover of Panchanama. Accordingly a case was registered under section 7(A) r/w 8(e) of the A.P. Prohibition Act, 1995. One sample was sent to the Regional Government Chemical Examiner for Prohibition and Excise, Nizamabad for analysis and report. The Chemical Examiner, in his report vide C.E.No.380/98 Dated 28.07.1998 opined that the sample is Liquor. On completion of investigation charge sheet was filed against you before the Hon'ble J.F.C.M. Special Court for Prohibition and Excise, Medak District at Sangareddy. You have surrendered on 18-11-1999 and released on bail and case is numbered as 99/01 and pending trial before J.F.C.M, Zaheerabad, Medak District.

3. C.O.R.No.100/98-99, Dt.24-02-1999.

On 24-02-1999 at about 03.15 P.M., on reliable information, Sri P.Yadagiri, Prohibition and Excise Sub-Inspector, and Sri A.V.S.Prasad, Prohibition and Excise Sub-Inspector have raided the H.No.2-4, Bagareddypally, Zaheerabad. There the officers have seized 146 Karnataka Arrack Sachets each containing 100 ml. from the vendor Sithara Sayamma, W/o. Kistaiah, R/o Bagareddypally, Zaheerabad Town. On enquiry by officer Sithara Sayamma has disclosed that the said arrack sachets are supplied by you. The search seizure and draw of samples were effected under cover of Panchanama. Accordingly a case was registered under section 7(A) r/w 8(e) of the A.P. Prohibition Act, 1995 in C.O.R.No.100/98-99, Dated 24-02-1999. One sample was sent to the Government Regional Chemical Examiner for Prohibition and Excise, Nizamabad for analysis and report. The Government Chemical Examiner, in his analysis report vide C.E.No.204/99 Dated 08-04-1999 opined that the sample is "Containing Alcohol as shown it is illicit distilled Liquor". On completion of investigation, Charge Sheet was filed against you before the Hon'ble Judicial First Class Magistrate at Zaheerabad. You have surrendered on 19-07-1999 and released on bail and case is numbered as C.C.No.308/01 and pending trial of the case on the file of J.F.C.M, Zaheerabad, Medak District.

4. C.O.R.No.123/98-99, Dt.23-03-1999.

On 23-03-1999 at about 11.00 A.M., on reliable information, Sri A.V.S.Prasad, Prohibition and Excise Sub-Inspector, Sri B.Kiran, Prohibition and Excise Sub-Inspector and H.Rani-woman Police Constable had kept watch at the main entrance. R.T.C Bus Stop, Zaheerabad. They have checked the luggages of suspected persons at the said place, during that checking you were coming on the way towards bus stop 3, stopped by the officers. During the check the officers found ½ kg. Dry Ganja and 50 Karnataka State Arrack Sachets each containing about 100 ml. and 4 ½ litres of I.D. Liquor. On enquiry, you disclosed that you have purchased Dry Ganja at Narayankhed and arrack sachets at Bidar Town of Karnataka State. Then the officers have arrested you o the spot with the help of woman police constable. The samples were effected under cover of Panchanama. Accordingly a case was registered under section 7(A) r/w 8(e) of the A.P. Prohibition Act, 1995, 34(a) of the A.P. Excise Act, 1968 and under section 20(b) of N.D.P.S Act, 1985. One sample packet of Ganja, arrack Sachets and I.D. Liquor each were sent to the Government Regional Chemical Examiner for Prohibition and Excise, Nizamabad for analysis and report. The Government Chemical Examiner, in his analysis report vide C.E.No.204/99 Dated 08-04-1999 Sl.No.3282 is “It is I.D. Liquor” Sl.No.3281 is “Ganja”. On completion of investigation filed Charge Sheet against you before the Additional District Judge at Sangareddy. You were arrested and released on bail and case was numbered as N.D.P.S. Sc.42/02, pending trial on the file of Special Court for the offences under N.D.P.S Act at Sangareddy, Medak District.

5. C.O.R.No.200/2000, Dt.08-02-2001:-

On 08-01-2001 at about 05.55 P.M., on reliable information, about sale of arrack sachets, Sri B.Kiran, Prohibition and Excise Sub-Inspector, and Sri P.Yadagiri, Prohibition and Excise Sub-Inspector have proceeded to the open place belongs to you at Bagareddypally of Zaheerabad. As soon as the Excise team reached to the suspected place you ran away by identifying the Excise vehicle. The officers have searched and found one polythin bag at your open place which containing 290 Karnataka Arrack Sachets each 100 ml. On local enquiry by the officers it was disclosed that you are conducting sale of arrack sachets at said place. The search, seizure and drawing of samples were effected under cover of Panchanama. Accordingly a case was registered under section 7(A) r/w 8(e) of the A.P. Prohibition Act, 1995 in C.O.R.No.200/2000-01 Dated 08-02-2001. On 13-02-2001 at about 1.30 P.M. Sri Yadagiri, Prohibition and Excise Sub-Inspector has arrested you and produced before the Court. During the investigation one sample was sent to the Government Regional Chemical Examiner for Prohibition and Excise, Nizamabad for analysis and report. The Government Chemical Examiner, in his analysis report vide C.E.No.128/2001 Dated 20-02-2001 opined that the

samples is “Liquor”. On completion of investigation, Charge Sheet was filed against you before the Hon’ble Judicial First Class Magistrate at Zaheerabad. You were released on bail on 13-02-2001 and case was numbered as C.C.No.156/03 pending trial of the case on the file of J.F.C.M, Zaheerabad, Medak District.

6. C.O.R.No.131/2001, Dt.29-09-2001:-

On 29-09-2001 at about 07.30 P.M., on reliable information, about sale of arrack sachets, Sri K.V.A.Raju, Prohibition and Excise Inspector, and Sri K.Venkateshwarlu, Prohibition and Excise Sub-Inspector have raided the H.No.2-4-71/A, at Bagareddypally, Zaheerabad Town. During the raid the said officers have seized 60 Karnataka Arrack Sachets in the House from Epthi Punamma, W/o Chandraiah, R/o Bagareddypally. On enquiry by the officer, Epthi Punamma has disclosed that her son Epthi Venkati and yourself have supplied the arrack sachets to her for conducting sale at that time both you and Venkati were not present at the scene of offence. The seizure and drawing of samples were affected under cover of Panchanama and arrested Epthi Punamma for conducting arrack sachets sale. Accordingly a case was registered against you under section 7(A) r/w 8(e) of the A.P. Prohibition Act, 1995 in C.O.R.No.131/2001-02 Dated 29-09-2001. One sample was sent to the Government Regional Chemical Examiner for Prohibition and Excise, Nizamabad for analysis and report. The Government Chemical Examiner, in his analysis report vide C.E.No.709/2002, Dated 30-10-2002 opined that the sample is “Liquor”. On completion of investigation, Charge Sheet was filed against you before the Judicial First Class Magistrate, Zaheerabad. You have surrendered and released on bail on 05-10-2001 and case was numbered as C.C.No.496/02 pending trial on the file of J.F.C.M, Zaheerabad, Medak District.

7. C.O.R.No.32/2003-04, Dt.16-4-2003:-

On 16-4-2003 at about 4.00 p.m. on information about sale of arrack sachets at the residential house of you at Bagareddypally, Zaheerabad, Sri R. Venkateshwarlu, Prohibition and Excise Sub-Inspector has raided the house. On identifying the officer you ran away from the said house. On local enquiry it was disclosed that the ran away person was yourself. The officer has searched your house and seized 105 Karnataka arrack sachets each containing 100 ml. The search seizure and drawing of samples were effected under cover of panchanama. Accordingly a case was registered u/s 7(A) r/w 8(e) of the A.P. Prohibition Act, 1995. On sample was sent to Government Regional Chemical Examiner for Prohibition and Excise, Nizamabad for

analysis and report, later you have surrendered before the court and obtained the bail. The Government Chemical Examiner in his report in vide C.E.No.279/03 dated 9.5.2003 opined that the sample is "Liquor". On completion of investigation charge sheet was filed before the Hon'ble Judicial First Class Magistrate, Zaheerabad. You have surrendered and released on bail on 1-7-2003 and case was numbered as C.C.No.60/04, on the file of J.F.C.M., Zaheerabad, Medak District.

8. C.O.R.No.35/2003, dated 21.4.2003:

On 21.4.2003 at about3-30 p.m. on receipt of reliable information about sale of arrack sachets at your house at Bagareddypally of Zaheerabad town. Sri R. Venkateshwarlu, Prohibition and Excise Sub Inspector has raided your house. On identifying the Excise raid party you ran away from the house. The Prohibition and Excise Sub Inspector has identified you as Wadde Bharathi, W/o. Hanumanthu. Then the officer has searched your house and found 250 Karnataka Arrack Sachets in a plastic bag. The search, seizure and drawing of samples were effected under cover of panchanama. Accordingly a case was registered under section 7(A) r/w.8(e) of the A.P. Prohibition Act, 1995 in C.O.R.No.35/2003-04, date 21-4-2003. Later your have surrendered before the J.F.C.M. Court, Zaheerabad and obtained the bail. One sample was sent to Government Regional Chemical Examiner for Prohibition and Excise, Nizamabad for analysis and report. The Government Chemical Examiner who analysed the sample has opined that it is "Liquor" vide report C.E.No.279/03, dated 9.5.2003 on completion of investigation charge sheet was filed against you before the Judicial First Class Magistrate, Zaheerabad. You have surrendered and released on bail on 1-7-2003 and case was numbered as C.C.No.58/04, on the file of J.F.C.M., Zaheerabad, Medak District.

9. C.O.R.No.103/2003-04, dated 7-7-2003:

On 7-7-2003 at about 3-45 p.m. on receipt of reliable information about transportation of arrack sachets from Balki to Zaheerabad, Sri R. Kishan, Prohibition and Excise Sub Inspector and Sri R. Venkateshwarlu, Prohibition and Excise Sub-Inspector have kept watch at Railway Station, Zaheerabad. At about 3-45 p.m. the officers have caught one passenger who was moving with one head load on the platform. The officer have stopped that suspected person and checked his luggage before two mediators and seized 300 Karnataka Arrack Sachets each containing 100 ml. On enquiry he disclosed his name as Islavath Suresh, S/o. Beem Singh, R/o. Bagareddypally, Zaheerabad Town. On further enquiry by the Excise Officers, Islavath Suresh was disclosed that he was engaged by Wadde Bharathi, W/o. Hanumanthu, R/o. Bagareddypally of Zaheerabad to bring arrack sachets from Balki of

Bidar district and he purchased 300 Arrack Sachets at the cost of Rs.1200/- to the sachets by Wadde Bharathi at high price. The Excise Officers have seized the Karanataka arrack sachets and drawn 2 sample packets and arrested Islavath Suresh. Accordingly a case was registered u/s.7(A), r/w.8(e) of the A.P. Prohibition Act, 1995 in C.O.R.No.103/2003-04, dated 7-7-2003. Islavath Suresh was produced before the Hon'ble Magistrate at Zaheerabad. One sample packet was sent to Government Chemical Examiner in his analysis report C.E.No.491/03, dated 22-8-2003 opined that the sample is "Liquor". You were arrested on 3-12-2003 and released on bail on 10-12-2003 and the case was numbered as C.C.No.88/04 pending trial on the file of J.F.C.M., Zaheerabad, Medak District.

10. C.O.R.No.124/2003-04, dated 20-7-2003:

On 20-7-2003 at about 5-15 p.m. on receipt of reliable information about transportation of Karnataka Arrack Sachets from Balki of Bidar District to Zaheerabad. Sri Ahmed Baig, Prohibition and Excise Sub-Inspector kept watch at the front side of Kumar Hotel, besides N.H.9, Zaheerabad. At about 5-15 p.m. one APSRTC bus bearing No.A.P.10Z-9860 of Zaheerabad has stopped at side place. One passenger got down from that bus along with 2 carry bags. On suspicion the prohibition and Excise Sub-Inspector searched his carry bags and found 250 arrack sachets in one bag and 200 arrack sachets in other bag each sachet containing 100 ml in two bags. On enquiry he disclosed his name as Wadde Keshappa, S/o. Hanumanthu, R/o. Bagareddypally, Zaheerabad.

The officer has seized all the arrack sachets i.e., total 450 and drawn sample packets under cover of panchanama. On further enquiry Wadde Keshappa has disclosed that he was transporting arrack sachets as per the instructions given by you and your henchwoman Punnamma, W/o. Chandraiah, R/o. Bagareddypally of Zaheerabad. Accordingly case was registered u/s.7(A) r/w.8(e) of the A.P. Prohibition Act, 1995 in C.O.R.No.124/2003-4, dated 20-7-2003 against you and Wadde Keshappa and Punamma. Then Wadde Keshappa was produced before the Jidicial First Class Magistrate, Zaheerabad for judicial remand. Tow sample packets were sent to Government Regional Chemical Examiner for Prohibition and Excise, Nizamabad for analysis and report. The Government Chemical Examiner, Nizamabad in his analysis report C.E.No.491/03 dated 22-8-2003 opined that the samples are "Liquor". You were arrested on 3-12-2003 and released on bail on 10-12-2003 and the case was numbered as C.C.No.165/04, on the file of JFCM., Zaheerabad, Medak District.

11. C.O.R.No.125/2003-04, dated 20-7-2003:

On 20-7-2003 at about 9-35 p.m. on information about illegal transportation of arrack sachets, Sri Ahmed Baig Prohibition and Excise Sub-Inspector, kept watch near railway gate, at N.H.9 Zaheerabad. One motor cycle bearing No.A.P.23-6623 coming towards Zaheerabad town. The pillion rider has identified the Excise Sub-Inspector and thrown away his gunny bag and ran away, efforts, failed to arrest him. On enquiry the bike raider has disclosed his name as Mohd. Ahmed, S/o. Isha Mohinuddin, R/o. Gadi Mohalla, Zaheerabad. Further the rider disclosed that ran away person is K. Ravinder, S/o. Narsimulu, R/o. Bagareddypally, Zaheerabad. He also further revealed that along with Ravindher at 2-00 p.m. proceeded to Balki of Bidar District and purchased 500 arrack sachets to supply them to you to sell on profit by you at Bagareddypally, Zaheerabad. The officer has seized 500 arrack sachets and TVS Motor bike and arrested Mohd. Ahmed and drawn sample packets under cover of Panchanama. Accordingly a case was registered u/s 7(A) r/w 8(e) of the A.P. Prohibition Act, 1995 in C.O.R.No.125/03-04, dated 20-7-2003 and produced Mohd.Ahmed before the Jidicial Magistrate, Zaheerabad for remand. One sample packet was sent to the Government Regional Chemical Examiner for Prohibition and Excise, Nizamabad for analysis and report. Then on 3-12-2003 you are arrested and produced before the Hon'ble Judicial Magistrate, Zaheerabad and subsequently released on bail. The Government Chemical Examiner in his analysis report C.E.No.491/03, dated 22-8-2003 opined that sample is liquor. You were arrested on 3-12-2003 and released on bail on 10-12-2003 and the case was numbered as C.C.No.70/04, pending trial on the file of JFCM, Zaheerabad, Medak District.

12. C.O.R.No.126/2003-04,dated 21-7-2003:

On 21-7-2003 at about 6-10 p.m. Sri R. Kishan, Prohibition and Excise Sub-Inspector and Sri R. Venkateshwarlu, Prohibition and Excise Sub-Inspector, SHO, Zaheerabad, on information about illegal transportation of arrack sachets from Balki to Zaheerabad through a train, kept watch on the railway platform Zaheerabad. At about 6-10 p.m. one passenger train halted. While searching the suspected persons luggages, you Wadde Bharathi, W/o. Hanumanthu, R/o. Bagareddypally, Zaheerabad was thrown away 2 carry bags at the opposite side to platform and disappeared. The two officers have identified you and searched and efforts failed to arrest. Then they recovered two bags and found that each bag was containing 300 Karnataka arrack sachets each of 100 ml i.e., total 600. They seized and drawn samples under cover of Panchanama. Accordingly a case has registered u/s 7(A) r/w 8(e) of the A.P. Prohibition Act, 1995 in C.O.R.NO.126/2003-04, dated 21-7-2003. Two sample packets were sent to Government Regional Chemical Examiner of Prohibition and Excise, Nizamabad for analysis and report. The Chemical Examiner in his analysis report vide C.E.No.491/03, dated 22-8-2003 opined that the samples are "Liquor". You were arrested on 3-12-2003 and released

on bail on 10-12-2003 and case was numbered as C.C.No.75/04, pending trial on the file of JFCM, Zaheerabad, Medak District.

13. C.O.R.No.246/2003-04, dated 20-10-2003:

On 20-10-2003 at about 7-20 p.m. on reliable information that Karnataka arrack sachets are illegally transported from Kuncharam village of Karnataka to Zaheerabad. Sri Khaja Asadullah, Prohibition and Excise Inspector Sri G. Janardhan Reddy, Prohibition and Excise Sub-Inspector, Station Zaheerabad and Sri Ahmed Baig, Prohibition and Excise Sub-Inspector, Enforcement wing, Nizamabad kept watch at southern side of railway gate, Zaheerabad. The officers found you along with other person coming by walk with one carry bag were stopped. On enquiry you have revealed your name and address and another person as Epthi Venkati, S/o. Chandraiah, R/o. Bagareddypally, who is your henchman. On search of your carry bag the officers have found 100 Karnataka arrack sachets each containing 100 ml, you have disclosed that you have purchased said arrack sachets at Kuncharam village of Karnataka State at the rate of Rs.5/- each sachets to sell the same at Rs.10/- at Bagareddypally, Zaheerabad town. Then the officers sized all the arrack sachets and drawn sample packets under cover of panchanama. At that time you and Epthi Venkati have suddenly pushed the Excise Officers and ran away in the darkness. Accordingly a case has registered u/s 7(A) r/w 8(e) of the A.P. Prohibition Act, 1995 in C.O.R.NO.246/2003-04, dated 20-10-2003. One sample was sent to Government Regional Chemical Examiner of Prohibition and Excise, Nizamabad for analysis and report. You were arrested on 3-12-2003 and released on bail on 10-12-2003 and the case was numbered as C.C.No.153/04, pending trial on the file of JFCM, Zaheerabad, Medak District.

14. C.O.R.No.336/2003-04, dated 8-1-2004:

On 18-1-2004 at about 6-10 p.m. on reliable information about illegal sales of I.D. Liquor and arrack sachets at Bagareddypally of Zaheerabad, Sri K.Madhavaiah, Prohibition and Excise Sub-Inspector, G.D. Haquani, Prohibition and Excise Sub-Inspector, of Station House Office, Zaheerabad secured panchas and raided your suspected place at Bagareddypally of Zaheerabad. As soon as the Excise team reached the said place you have along with one carry bag seen the excise staff left the said bag and ran away into bylines in darkness. The efforts of tracing you by the excise officers were not succeeded. The other person standing near the said place disclosed that the ran away person who left the bag, identified as Wadde Bharathi, W/o.

Hanumanthu, aged 48 years. Then the officers in the presence of 2 panchas opened the bag left by you and found (42) Karnataka arrack sachets, each containing 100 ml., of liquor. The officers seized the said arrack sachets and drawn 2 samples under cover of panchanama. Accordingly a case has registered by SHO, Zaheerabad u/s 7(A) r/w 8(e) of the A.P. Prohibition Act, 1995 in C.O.R.NO.336/2003-04, dated 8-1-2004. One sample was sent to Government Chemical Examiner, Regional Excise Laboratory, Nizamabad for analysis and report. The Government Chemical Examiner who analysed the sample in is report C.E.No.99/04, dated 17-2-2004 opined that the sample is "Liquor". In this case also arrested on 15-4-2004 and you are released on bail on 17-4-2004. On completion of investigation charge sheet was filed against you in the Court, JFCM, Zaheerabad, Medak District and numbered as C.C.No.221/2004, which is under trial.

15. C.O.R.No.448/2003-04, dated 30-3-2004:

On 30-3-2004 at about 6-10 p.m. on reliable information and complaint from Sri Nagappa and Ramulu, r/o. Bagareddypally of illegal sales of arrack sachets at Bagareddypally of Zaheerabad Sri Khaja Asadullah, Prohibition and Excise Inspector and K. Madhavaiah, Prohibition and Excise Sub-Inspector of SHO Zaheerabad along with two lady constables proceeded to the suspected place at Bagareddypally. On search by the said excise officers at the open place they found a lady with one carry polythin bag and found 192 arrack sachets and also Rs.80/- with the woman. On enquiry she revealed her name as Epthi Susheela, W/o. Epthi Venkati, aged 24 years, r/o. Bagareddypally, Zaheerabad. On further enquiry by the said Excise Officers she has disclosed that her mother Epthi Punnamma, W/o. Chandraiah, aged about 42 yers, R/o. Bagareddypally, Zaheerabad. On further enquiry by the said Excise Officers she has disclosed that her mother Epthi Punnamma, W/o. Chandraiah, aged about 42 years, R/o. Bagareddypally, Zaheerabad and her associate Wadde Bharathi, W/o. Hanumanthu, age 48 years, have jointly purchased the said Karnataka Arrack sachets at Kunchavaram village of Karnataka State. They both purchased 200 Karnataka arrack sachets and gave her to sale to the regular customers at the rate of Rs.10/- each. The officers made efforts to arrest the Epthi Punnamma and Wadde Bharathi but could not be succeeded on the spot. The officers seized the 192 arrack sachets and Rs.80/- found with the lady on the spot end drawn two sample packets under cover of panchanama. Accordingly a case was registered in C.O.R.No.448/2003-04, dated 30-3-2004 u/s 7(A) r/w. 8(e) of A.P. Prohibition Act 1995. One sample was sent to the Government Chemical Examiner, Regional Examiner Laboratory, Nixamabad for analysis and report. The Government Chemical Examiner who analysed the sample vide his report C.E.No.241/2004, dated 24-4-2004 has opined that the sample is illicit distilled liquor containing acidity, fusel oil and other allied impurities and it is

injurious to health and unfit for human consumption. You were arrested and released on bail on 17-4-2004. On completion of investigation charge sheet was filed against you before the JFCM., Zaheerabad and numbered at C.C.No.271/2004, which is pending trial.

16. C.O.R.No.149/2004-05, dated 10-8-2004:

On 10-8-2004 at about 6-50 p.m. on receipt of reliable information and complaint from Sri Venkaiah, R/o. Bagareddypally about illegal possession of sale of I.D. liquor and arrack sachets at Bagareddypally of Zaheerabad, Sri S.Janaiah, Prohibition and Excise Inspector, K. Madhavaiah, Prohibition and Excise Sub-Inspector and G. Janardhan Reddy, Prohibition and Excise Sub-Inspector of SHO Zaheerabad have raided the house of Wadde Bharathi. On identifying the Excise Officers, you have absconded on fear of arrest from the scene of offence without locking the doors of your house. On search of your house by the said excise officers, found two rubber tubes each containing 50 Ltrs., o I.D. liquor and also 64 Karnataka arrack sachets of 100 ml., each. The search, seizure and drawl of samples were effected in the panchanama on the spot. Accordingly a case was registered u/s 7(A) r/w 8(e) of A.P. Prohibition Act, 1995 and u/w. 34(a) of A.P. Excise Act 1968 in C.O.R. No.149/2004-05, dated 10-8-2004. The samples were sent to Chemical Examiner Regional Excise Laboratory, Nizamabad for analysis and report. The Government Chemical Examiner who analysed sample vide his Report C.E.No.529/2004, dated 13.8.2004 has opined that the samples are I.D. liquor containing acidity, fusel oil and other allied impurities and it is injurious to health and unfit for human consumption."

3. The learned counsel for the petitioner submits that the detention order is wholly unsustainable in law and inasmuch as the stale grounds referred to right from 1997 and therefore, the detention order is illegal and that neither proximity nor continuity is maintained. Secondly also he submits that in ground Nos. 15 and 16 even though it was stated that it is adulterated liquor, but percentage of acidity and fusel oil was not mentioned. Under those circumstances it cannot be deciphered as to whether the percentage of acidity and fusel oil is within the permissible limits or not. He relies on the judgment of the Division Bench of this Court in **BOYA CHINNA SUBBARAYUDU v THE COLLECTOR AND DISTRICT MAGISTRATE, KURNOOL & OTHERS** and also in **SMT. E. NOOKA RATNAM, NELLORE v THE COLLECTOR AND DISTRICT MAGISTRATE, NELLORE & OTHERS**. The learned counsel also submits that when the samples were sent for chemical examination, the chemical analyst has only stated that the samples are liquors, but

he did not mention that it is adulterated and it is injuries to health causing widespread danger to the public health. Therefore on this ground alone the learned counsel would submit that the detention order is liable to be set aside.

4. The learned Advocate General submits that right from 1997 she has been committing series of offences relating to the illegal possession of the liquor in contravention of the statutory provisions. The chemical analyst only found just it is a liquor and it must be construed that it is unfit for human consumption. Even if the percentage is not mentioned, when it is found to be adulterated, that itself constitute illegality and therefore, the detention orders can be successfully passed by virtue of the provisions of the Act. We need not consider all the grounds mentioned in the detention order. Suffice to say that in ground Nos.1 to 14 when the samples were sent to analyst, the analyst opined that the samples contained liquor, but the question that calls for consideration is whether it is acceptable liquor or whether it is unfit for human consumption or whether it causes widespread danger to the public health was not mentioned. Mere possession of the liquor would not constitute an offence much less a ground for passing an order as a preventive detention measure. Moreover, the detaining authority has drawn an inference that the arrack seized from the possession of the detenu is injurious to health and public safety. There is no material on record to draw such an inference by the detaining authority and, therefore, the detention order suffers from serious infirmity and the same is liable to be set aside. On that ground alone without going to other contentions of the learned counsel for the petitioner, we are satisfied that the detention order is not sustainable in law and is liable to be set aside.

5. In the result, the Writ Petition is allowed and the impugned order of detention passed by the 1st respondent is hereby quashed. The detenu shall be set at liberty forthwith, if not required in any other crime.

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(G. BIKSHAPATHY, J.)

(CH.S.R.K. PRASAD, J.)

Date: 08-11-2004

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That Rule Nisi is made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this **Monday the Eighth day of November Two thousand and Four.**

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ASSISTANT REGISTRAR

To

1 The Collector and District Magistrate, Medak District at Sangareddy.
2 The Chief Secretary, Government of Andhra Pradesh, Secretariat, Hyderabad.
3 The Superintendent, Central Prison, for Women, Chenchalguda, Hyderabad.

4. 2 CCs to the Advocate General, High Court of A.P., Hyderabad (OUT).

5. 2 CD copies.